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Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 13, 2006

Charles Clark, Real Estate Commissioner
Georgia Real Estate Appraisers Board
Suite 1000, International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303-1605

Dear Mr. Clark:

Thank you for providing us a copy of your January 20, 2006 Notice of Intent to amend §§ 539-2-.03 and 539-2-.05 of the Georgia Real Estate Appraisers Board's ("Board") rules. We understand that you have made some adjustments in the proposals to address concerns in our December 15, 2005 letter regarding those proposals. In our December 15th letter (and in a March 28, 2005 letter regarding previous rule changes), we stated that the 15-hour Uniform Standards of Professional Appraisal Practice ("USPAP") course, when used to support the issuance of a certified residential or certified general classification, must be the "15-hour National USPAP course or its equivalent." We also noted in our December 15th letter that Georgia could not include the topic of residential mortgage fraud law within the fifteen hours dedicated to teaching USPAP. The new version of the rule proposals has corrected to alleviate this concern.

The new changes, however, now are more problematical than before. As discussed below, they now contain inaccuracies and misleading statements that are likely to lead to confusion on the part of appraiser applicants.

First, the operative language of the rules still requires every applicant to take a course "to include at a minimum the following: . . . 15 hours in the Uniform Standards of Professional Appraisal Practice (USPAP)." For applicants for certified residential and certified general credentials, this language must refer to, "the 15-hour National USPAP Course or its equivalent." Under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI") persons wishing to become certified appraisers must meet this specific requirement. For consistency purposes, you may wish to include this language in those portions of the proposal relating to registered and licensed appraisers.

Second, the proposed rules state in a "note" after the operative language above, in part, that "[i]f an applicant plans to use this course [*i.e.*, relating to the "15 hours in the Uniform Standards of Professional Appraisal Practice"] for a certified classification, the Appraisal Subcommittee of the federal government contends that federal law requires that the course be one not subject to the Board's review and approval. Instead it must be one the Appraisal Subcommittee ["ASC"] has identified by the name '15-hour National USPAP Course or its equivalent.'"

The ASC does not set the educational requirements for certified appraisers. That authority

under Title XI rests with the Appraiser Qualifications Board of the Appraisal Foundation (“AQB”). The AQB has determined that persons wishing to qualify as certified appraisers must take and pass the AQB’s 15-hour National USPAP course or its equivalent. Under Title XI, States choosing to have State appraiser regulatory agencies must comply with that minimum requirement. And, under Title XI, the ASC must determine whether States are applying and enforcing the AQB’s minimum qualifications criteria for certification, including whether certification applicants have taken and passed the 15 hour National USPAP course or its equivalent.

That is not to say that the Board has no decision making authority regarding the approval of USPAP courses. The AQB has recognized fifteen USPAP courses as being equivalent to the 15 hour National USPAP course. The Board can choose to accept any one or all of those courses to provide certification applicants with course choices.

Because the note’s language is problematical in many ways, we urge its deletion. At the very least, we strongly recommend that you consider having legal counsel review the language of the “note” prior to the proposals’ adoption to determine its accuracy and propriety.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director



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STAFF

CHARLES CLARK
Real Estate Commissioner

January 20, 2006

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NOTICE OF INTENT

NOTICE IS HEREBY GIVEN that the Georgia Real Estate Appraisers Board proposes to amend the following Rules:

539-2-.03 Courses. Amended.

539-2-.05 Continuing Education Courses. Amended.

Any party wishing to express opinions or views on the proposed Rules listed above may do so by contacting or writing Charles Clark, Georgia Real Appraisers Board, Suite 1000 - International Tower, 229 Peachtree Street, N. E., Atlanta, Georgia 30303-1605, no later than March 8, 2006.

This Rule is being promulgated pursuant to O.C.G.A. '43-39A13. The Board proposes to amend this Rule at its regularly scheduled meeting on March 15, 2006, at 8:30 a.m. at the address listed above. If adopted would these amendments become effective July 1, 2006.

GEORGIA REAL APPRAISERS BOARD

CHARLES CLARK

Real Estate Commissioner

Proposed Rule

January 20, 2006

Synopsis and Rationale

Most of these rule amendments were in a Notice of Intent dated November 18, 2005. After receiving written comments from the Appraisal Subcommittee expressing concerns about those proposals, the Board modified its original proposals and now issues this revised Notice of Intent.

If adopted, these amendments will be effective July 1, 2006.

The proposed change to Rule 539-2-.03 (2) expressly requires approved schools to include in their pre-classification course curricula instruction on Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions as well as properly reporting alleged fraud.

The proposed change to Rule 539-2-.05 (1) authorizes approved schools to include in their continuing education courses instruction on Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions as well as properly reporting alleged fraud.

After considering the economic impact upon businesses in Georgia, the Commission finds that the proposed rule amendments are the least expensive regulatory alternatives that fulfill the objectives of the License Law.

539-2-.03 Courses. Amended.

(2) The curriculum of courses approved under this Rule should include at a minimum the following:

(a) for courses approved to meet the education requirement for state registered real property appraiser:

1. 30 hours in Basic Appraisal Principles covering topics such as real property concepts and characteristics, legal considerations, influences on real estate values, types of value, economic principles, an overview of real estate markets and analysis, the provisions of the Appraisal Act and its Rules and Regulations, and ethics and how they apply in appraisal theory and practice;

2. 30 hours in Basic Appraisal Procedures covering topics such as the provisions of Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud, an overview of approaches to value, valuation procedures, property description, and residential applications;

3. 15 hours in Residential Report and Case Studies covering as writing and reasoning skills, common writing problems, form reports, report options, USPAP compliance, and case studies or 15 hours in General Appraisal Report Writing and Case Studies covering topics such as writing and reasoning skills, common writing problems, and report options;

4. 15 hours in the Uniform Standards of Professional Appraisal Practice (USPAP) ~~and the provisions of the Appraisal Act and its Rules and Regulations~~ (NOTE: If an applicant plans to use this course for a certified classification, the Appraisal Subcommittee of the federal government contends that federal law requires that the course be one not subject to the Board's review and approval. Instead, it must be one the Appraisal Subcommittee has identified by the name "15-hour National USPAP Course, or its equivalent." That course was developed to generate profits for The Appraisal Foundation, a private trade association, under criteria unknown to the Board. The phrase "its equivalent" apparently means only a course that The Appraisal Foundation says is "equivalent" to its course. Appraisers may not receive credit for the "15-hour National USPAP Course, or its equivalent" unless the school offering that course pays a special fee to The Appraisal Foundation. Regardless of the educational quality of the course, a course developed by Board approved schools on USPAP may not replace this course unless the school obtains The Appraisal Foundation's equivalency authorization and pays it a fee both for the approval and for each student who takes the course.); and
5. such other subject matter as the Board may require or approve.

(b) for courses approved to meet the education requirement for state licensed real property appraiser:

1. 30 hours in Basic Appraisal Principles covering topics such as real property concepts and characteristics, legal considerations, influences on real estate values, types of value, economic principles, an overview of real estate markets and analysis, the provisions of the Appraisal Act and its Rules and Regulations, and ethics and how they apply in appraisal theory and practice;
2. 30 hours in Basic Appraisal Procedures covering topics such as the provisions of Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud, an overview of approaches to value, valuation procedures, property description, and residential applications;
3. 15 hours in Residential Market Analysis And Highest And Best Use covering topics such as market fundamentals and characteristics, supply analysis, demand analysis, use of market analysis, and the application of highest and best use;
4. 15 hours in Residential Appraisal Site Valuation And Cost Approach covering topics such as site valuation methods, cost approach concepts and definitions, replacement/reproduction cost new, and methods of estimating accrued depreciation;
5. 30 hours in Residential Sales Comparison And Income Approaches covering topics such as sales comparison valuation principles & procedures, income valuation principles & procedures, finance and cash equivalency, financial calculators, derivation and measurement of adjustments, gross rent multipliers, partial interests, and reconciliation;
6. 15 hours in Residential Report Writing and Case Studies covering topics such as writing and reasoning skills, common writing problems, form reports, report options, USPAP compliance, and case studies;
7. 15 hours in the Uniform Standards of Professional Appraisal Practice (USPAP) ~~and the provisions of the Appraisal Act and its Rules and Regulations~~ (NOTE: If an applicant plans to use this course for a certified classification, the Appraisal Subcommittee of the federal government contends that federal law requires that the course be one not subject to the Board's review and approval. Instead, it must be one the Appraisal Subcommittee has identified by the name "15-hour National USPAP Course, or its equivalent." That course was developed to generate profits for The Appraisal Foundation, a private trade association, under criteria unknown to the Board. The phrase "its equivalent" apparently means only a course that The Appraisal Foundation says is

Appraisers may not receive credit for the "15-hour National USPAP Course, or its equivalent" unless the school offering that course pays a special fee to The Appraisal Foundation. Regardless of the educational quality of the course, a course developed by Board approved schools on USPAP may not replace this course unless the school obtains The Appraisal Foundation's equivalency authorization and pays it a fee both for the approval and for each student who takes the course.); and

8. such other subject matter as the Board may require or approve.

(c) for courses approved to meet the education requirement for state certified residential real property appraiser:

1. 30 hours in Basic Appraisal Principles covering topics such as real property concepts and characteristics, legal considerations, influences on real estate values, types of value, economic principles, an overview of real estate markets and analysis, the provisions of the Appraisal Act and its Rules and Regulations, and ethics and how they apply in appraisal theory and practice;

2. 30 hours in Basic Appraisal Procedures covering topics such as the provisions of Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud, an overview of approaches to value, valuation procedures, property description, and residential applications;

3. 15 hours in Residential Market Analysis And Highest And Best Use covering topics such as market fundamentals and characteristics, supply analysis, demand analysis, use of market analysis, and the application of highest and best use;

4. 15 hours in Residential Appraisal Site Valuation And Cost Approach covering topics such as site valuation methods, cost approach concepts and definitions, replacement/reproduction cost new, and methods of estimating accrued depreciation;

5. 30 hours in Residential Sales Comparison And Income Approaches covering topics such as sales comparison valuation principles & procedures, income valuation principles & procedures, finance and cash equivalency, financial calculators, derivation and measurement of adjustments, gross rent multipliers, partial interests, and reconciliation;

6. 15 hours in Residential Report Writing and Case Studies covering topics such as writing and reasoning skills, common writing problems, form reports, report options and USPAP compliance, and case studies;

7. 15 hours in Statistics, Modeling And Finance covering topics such as statistics, valuation, models, and real estate finance;

8. 15 hours in Advanced Residential Applications And Case Studies covering topics such as complex property, ownership and market conditions, deriving and supporting adjustments, residential market analysis, and advanced case studies;

9. 20 hours of additional courses in appraisal subject matter;

10. 15 hours in the Uniform Standards of Professional Appraisal Practice (USPAP) and ~~the provisions of the Appraisal Act and its Rules and Regulations~~; (NOTE: If an applicant plans to use this course for a certified classification, the Appraisal Subcommittee of the federal government contends that federal law requires that the course be one not subject to the Board's review and approval. Instead, it must be one the Appraisal Subcommittee has identified by the name "15-hour National USPAP Course, or its equivalent." That course was developed to generate profits for The Appraisal Foundation, a private trade association, under criteria unknown to the Board. The phrase "its equivalent" apparently means only a course that The Appraisal Foundation says is "equivalent" to its course. Appraisers may not receive credit for the "15-hour National USPAP Course, or its equivalent" unless the school offering that course pays a special fee to The Appraisal Foundation. Regardless of the educational quality of the course, a

course developed by Board approved schools on USPAP may not replace this course unless the school obtains The Appraisal Foundation's equivalency authorization and pays it a fee both for the approval and for each student who takes the course.); and 11. such other subject matter as the Board may require or approve.

(d) for courses approved to meet the education requirement for state certified general real property appraiser:

1. 30 hours in Basic Appraisal Principles covering topics such as real property concepts and characteristics, legal considerations, influences on real estate values, types of value, economic principles, an overview of real estate markets and analysis, the provisions of the Appraisal Act and its Rules and Regulations, and ethics and how they apply in appraisal theory and practice;
2. 30 hours in Basic Appraisal Procedures covering topics such as the provisions of Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud, an overview of approaches to value, valuation procedures, property description, and residential applications;
3. 30 hours in General Appraisal Market Analysis And Highest And Best Use covering topics such as market fundamentals and characteristics, supply analysis, demand analysis, use of market analysis, and the application of highest and best use;
4. 30 hours in General Appraisal Site Valuation And Cost Approach covering topics such as site valuation methods, cost approach concepts and definitions, replacement/reproduction cost new, and methods of estimating accrued depreciation;
5. 30 hours in General Appraisal Sales Comparison Approach covering topics such as sales comparison valuation principles & procedures, derivation and measurement of adjustments, and reconciliation;
6. 60 hours in General Appraisal Income Approach covering topics such as compound interest, lease analysis, income analysis, vacancy and collection loss, estimating operating expenses and reserves, reconstructed income and expense statement, stabilized net operating income estimate, direct capitalization, discounted cash flow, yield capitalization, and partial interests;
7. 30 hours in General Appraisal Report Writing and Case Studies covering topics such as writing and reasoning skills, common writing problems, and report options;
8. 15 hours in Statistics, Modeling And Finance statistics, valuation, and models;
9. 30 hours of additional courses in appraisal subject matter;
10. 15 hours in the Uniform Standards of Professional Appraisal Practice (USPAP) and the provisions of the Appraisal Act and its Rules and Regulations; (NOTE: If an applicant plans to use this course for a certified classification, the Appraisal Subcommittee of the federal government contends that federal law requires that the course be one not subject to the Board's review and approval. Instead, it must be one the Appraisal Subcommittee has identified by the name "15-hour National USPAP Course, or its equivalent." That course was developed to generate profits for The Appraisal Foundation, a private trade association, under criteria unknown to the Board. The phrase "its equivalent" apparently means only a course that The Appraisal Foundation says is "equivalent" to its course. Appraisers may not receive credit for the "15-hour National USPAP Course, or its equivalent" unless the school offering that course pays a special fee to The Appraisal Foundation. Regardless of the educational quality of the course, a course developed by Board approved schools on USPAP may not replace this course unless the school obtains The Appraisal Foundation's equivalency authorization and pays it a fee both for the approval and for each student who takes the course.); and
11. such other subject matter as the Board may require or approve.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A- 13, 43-39A-18, & 43-39A-22.

539-2-.05 Continuing Education Courses. Amended.

(1) The Board shall deem an appraiser who completes the seven hour course on the Uniform Standards of Professional Appraisal Practice as required in Rule 539-1-.16 (7) to have met the continuing education requirement of O.C.G.A. Section 43-39A-8(b) for a renewal period if the appraiser also successfully completes in a renewal period any of the following courses which have at least the total number of hours of instruction that the appraiser is required to complete:

(a) any course of at least 3 semester hours or 5 quarter hours at an accredited college or university which deals with principles, fundamentals, or essentials of valuation. College correspondence courses and courses which qualify for continuing education units may not be used to qualify under this Rule; or

(b) any other course which the Board approves prior to an appraiser's taking the course and which includes coverage of real estate appraisal related topics such as:

1. ad valorem taxation;
2. arbitrations;
3. business courses related to practice of real estate appraisal;
4. development cost estimating;
5. ethics and standards of professional practice;
6. land use planning, zoning, and taxation;
7. management, leasing, brokerage, and timesharing;
8. property development;
9. real estate appraisal;
10. real estate law;
11. real estate litigation;
12. real estate financing and investment;
13. real estate appraisal related computer applications;
14. real estate securities and syndication;
15. real property exchange; 15.1 . Georgia's Residential Mortgage Fraud law and methods for identifying possible fraud in transactions and properly reporting alleged fraud;
- 15.2. the provisions of the Appraisal Act and its Rules and Regulations; and
16. any other topics to which the Board may give prior approval.

(c) Any course approved by another appraiser regulatory licensing and certification agency in any state, district, territory, possession, or providence of the United States or Canada which meets the requirements of paragraph (1)(b) of this Rule.

Authority O.C.G.A. §§43-39A-3, 43-39A-8, 43-39A-9, 43-39A-11, 43-39A-13, 43-39A18,
& 43-39A-22.